

September 23, 2015

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

RE: Drenning Property at 39 Stocksedale Avenue
Forest Conservation Variance
Tracking # 02-15-2059

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on September 1, 2015. This request would allow the removal of one of two specimen trees to subdivide a 1.4-acre residentially developed property into three lots. The specimen tree to be removed is a 56-inch DBH, nonnative Norway maple in poor condition located in the middle of the site in lawn.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to redevelop a small 1.4-acre parcel. Full application of the law would result in unwarranted hardship to the applicant, given that the specimen tree to be removed is in the middle of the site. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that their plight is due to unique circumstances and not the general conditions of the neighborhood. The variance request arises from the unique circumstance of the specimen tree being in the middle of the site. Therefore, the plight is

associated with the subject property rather than general conditions in the neighborhood. Consequently, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed residential development is consistent with the neighborhood, which consists primarily of single family detached dwellings. Therefore, we find that the scope of the development project will not alter the essential character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that there are no wetlands, streams or riverine floodplains on the subject property. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has taken no actions on the property necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of one nonnative specimen tree in poor condition to develop a minor subdivision would be consistent with the spirit and intent of the Forest Conservation Law. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with no mitigation, since the tree to be removed is a nonnative species and the project's 0.2-acre reforestation requirement will be met by purchasing credit at an EPS-approved forest retention bank.

It is the intent of this Department to approve this variance based on the development proposal presented. Any changes to site layout may require submittal of revised plans and a new variance request.

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If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

Vincent J. Gardina
Director

VJG/ges

c. Ms. Marian Honeczy, Maryland Dept. of Natural Resources